IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4399 OF 2004

Sind Coop.Housing Society Ltd. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents.

Mr.Mohan Pungaliya for petitioners

Mr.Y.D.Mulani, A.G.P. for respondents.

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 28TH OCTOBER 2004.

P.C.

1. Rule.

2. Learned A.G.P. waives service for respondents. By consent rule is made returnable forthwith.

3. Petitioner is a society formed for housing refugees migrated to India during partition of the Country. Under the draft development plan for Pune city, which was published on 18th September 1982, S.No.69, 70 and 71 of the society were proposed to be reserved for primary school. The society made written representation to the State Government as well as Pune Municipal Corporation that the plot proposed to be reserved for primary school are not vacant as houses were already constructed long ago and were occupied by refugee families and that there is already a primary school and high school in the vicinity of the society. Final revised development plan was sanctioned by State Government on 5th January 1987 and the reservation of the said plot was retained. The petitioner again made representations to the Director, Town Planning and the City Improvement Committee of the Corporation for deletion of reservation from the development plan.

4. The Director, Town Planning vide his letter dated 3rd August 1991 acknowledged the fact that houses have already come up on the said

plot after permission given by the Corporation and the school is already in existence and stated that he has no objection to delete the reservation under section 537 of the M.R.T.P. Act. The City Improvement Committee has also passed a resolution on 7th July 1992 recommending deletion of reservation for primary school. The resolution to this effect was also passed by the General Body of Corporation on 22nd October 1992. Pursuant to the resolution, Municipal Commissioner wrote to the State Govenment vide his letter dated 21st November 1992 recommending deletion of reservation.

5. It appears that the Secretary, Urban Development Department vide his letter dated 8th February 1994 directed Pune Municipal Corporation under section 37 of the M.R.T.P. Act to take steps by inviting objections/ suggestions from the public for modification in the development plan. Accordingly gazette notification was issued under section 37 on 18th May 1995. Public notice was also issued in the newspapers on 20th and 21st May 1995 and thereafter, general body passed resolution for modification by deleting

the reservation of petitioner's property on 19th October 1995 and this resolution was duly communicated to the State Government.

6. Right from 1995, the proposal is pending for consideration of the State Government. We see no justification for keeping the proposal pending for such a long time. Mr.Mulani, learned A.G.P. after taking instructions from Mr.Pasalkar, Under Secretary, Urban Development Department who is present in person, submitted that the Government will take final decision on the proposal within three months from today. Petition is accordingly disposed of.

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